

Nuclear Regulatory Commission

§ 2.708

as affirmative defenses or positions shall be separately stated and identified and, in the absence of a reply, shall be deemed to be controverted.

(c) If a party does not oppose an order or proposed action embodied in or accompanying the notice of hearing, or does not wish to appear and present evidence at the hearing, the answer shall so state. In lieu of appearing at the hearing, a party may request leave to file a statement under oath or affirmation of reasons why the proposed order or action should not be issued or should differ from that proposed. Such a statement, if accepted, will be accorded whatever weight is deemed proper.

§ 2.706 Reply.

A party may file a reply to an answer within ten (10) days after it is served.

[27 FR 377, Jan. 13, 1962, as amended at 43 FR 17801, Apr. 26, 1978]

§ 2.707 Default.

On failure of a party to file an answer or pleading within the time prescribed in this part or as specified in the notice of hearing or pleading; to appear at a hearing or prehearing conference, to comply with any prehearing order entered pursuant to § 2.751a or § 2.752, or to comply with any discovery order entered by the presiding officer pursuant to § 2.740, the Commission or the presiding officer⁴ may make such orders in regard to the failure as are just, including, among others, the following:

(a) Without further notice, find the facts as to the matters regarding which the order was made in accordance with the claim of the party obtaining the order, and enter such order as may be appropriate; or

(b) Proceed without further notice to take proof on the issues specified.

[37 FR 15131, July 28, 1972]

⁴When a reference is made to the Commission or the presiding officer in this subpart and a presiding officer has been designated, the specified action will be taken by the presiding officer, unless otherwise provided.

§ 2.708 Formal requirements for documents.

(a) Each document filed in an adjudication subject to this part to which a docket number has been assigned shall bear the docket number and title of the proceeding.

(b) Each document shall be bound on the left side and typewritten, printed or otherwise reproduced in permanent form on good unglazed paper of standard letterhead size. Each page shall begin not less than one and one-quarter inches from the top, with side and bottom margins of not less than one and one-quarter inches. Text shall be double-spaced, except that quotations may be single-spaced and indented. The requirements of this paragraph do not apply to original documents or admissible copies offered as exhibits, or to specially prepared exhibits.

(c) The original of each document shall be signed in ink by the party or his authorized representative, or by an attorney having authority with respect to it. The capacity of the person signing, his address, and the date shall be stated. The signature of a person signing in a representative capacity is a representation that the document has been subscribed in the capacity specified with full authority, that he has read it and knows the contents, that to the best of his knowledge, information, and belief the statements made in it are true, and that it is not interposed for delay. If a document is not signed, or is signed with intent to defeat the purpose of this section, it may be stricken.

(d) Except as otherwise provided by this part or by order, a pleading (or other document) other than correspondence shall be filed in an original and two conformed copies.

(e) The first document filed by any person in a proceeding shall designate the name and address of a person on whom service may be made.

(f) A document filed by telegraph need not comply with the formal requirements of paragraphs (b), (c), and (d) of this section if an original and copies otherwise complying with all of the requirements of this section are mailed within two (2) days thereafter

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to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

[27 FR 377, Jan. 13, 1962, as amended at 28 FR 10153, Sept. 17, 1963; 33 FR 6708, May 5, 1968; 39 FR 35332, Oct. 1, 1974; 45 FR 49537, July 25, 1980; 62 FR 27495, May 20, 1997]

§ 2.709 Acceptance for filing.

A document which fails to conform to the requirements of § 2.708 may be refused acceptance for filing and may be returned with an indication of the reason for nonacceptance. Any matter so tendered but not accepted for filing shall not be entered on the Commission's docket.

§ 2.710 Computation of time.

In computing any period of time, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday at the place where the action or event is to occur, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor holiday. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him or her and the notice or paper is served upon by mail, five (5) days shall be added to the prescribed period. Only two (2) days shall be added when a document is served by express mail.

[46 FR 58281, Dec. 1, 1981]

§ 2.711 Extension and reduction of time limits.

(a) Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may for good cause be extended or shortened by the Commission or the presiding officer, or by stipulation approved by the Commission or the presiding officer.

(b) In any instance in which this part does not prescribe a time limit for an action to be taken in the proceeding,

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the Commission or the presiding officer may set a time limit for that action.

[37 FR 15131, July 28, 1972]

§ 2.712 Service of papers, methods, proof.

(a) *Service of papers by the Commission.* Except for subpoenas, the Commission will serve all orders, decisions, notices, and other papers issued by it upon all parties.

(b) *Who may be served.* Any paper required to be served upon a party shall be served upon him or upon the representative designated by him or by law to receive service of papers. When a party has appeared by attorney, service must be made upon the attorney of record.

(c) *How service may be made.* Service may be made by personal delivery, by first class, certified or registered mail including air mail, by telegraph, or as otherwise authorized by law. Where there are numerous parties to a proceeding, the Commission may make special provision regarding the service of papers. The presiding officer may require service by express mail upon some or all parties and the presiding officer.

(d) *Service on the Secretary.* (1) All pleadings must be served on the Secretary of the Commission in the same or equivalent manner, *i.e.*, telefax, express mail, personal delivery, or courier, that they are served upon the adjudicatory tribunals and the parties to the proceedings so that the Secretary will receive the pleading at approximately the same time that it is received by the tribunal to which the pleading is directed.

(2) When pleadings are personally delivered to tribunals while they are conducting proceedings outside the Washington, DC area, service on the Secretary may be accomplished by overnight mail.

(3) Service of pre-filed testimony and demonstrative evidence (*e.g.*, maps and other physical exhibits) on the Secretary may be made by first-class mail in all cases.

(4) The addresses for the Secretary are: